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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/885,064	06/21/2001	Amy E. Battles	10012454 - 1	4346

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FORT COLLINS, CO 80527-2400

EXAMINER

VILLECCO, JOHN M

ART UNIT	PAPER NUMBER
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2612

DATE MAILED: 10/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/885,064

Applicant(s)

BATTLES ET AL.

Examiner

John M. Villecco

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 September 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Regarding *claim 10*, applicant claims the limitation, "said display capable is selectively deactivated in accordance with the expiration of a timeout period". However, the specification does not disclose that the display is selectively deactivated in accordance with a timeout period. The parent claim, claim 8, includes the limitation of displaying an instantaneous image or displaying a stored image and the display being selectively deactivated. However, the only hint of an expiration of a predetermined time period occurs in paragraph 19 and Figure 2 (ref. No. S208). Here, the applicant describes the ability of the camera to determine if the finger is still on the shutter button. If it is, then a live view is displayed. If not, the last captured image is displayed. Therefore, the display is never deactivated. It is only switched from one mode to another.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 7 is rejected under 35 U.S.C. 102(b) as being anticipated by Torikai (Japanese Publ. No. 2000-138854).

6. Regarding *claim 7*, Torikai discloses a digital camera which includes a display (4), an image sensor (CCD, 1), and a memory card (9). The camera uses a touch sensor (14) to determine if a user is touching the shutter release button (11). If it is determined that the user is touching the shutter release button (11), the display (4) is turned on in anticipation of an image capture. The display then displays the images captured by the CCD (1). See paragraphs 0018-0024. An official translation of this reference has been ordered for use in subsequent office actions.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-5, 8, 11, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson (U.S. Patent No. 6,122,003) in view of Torikai (Japanese Publ. No. 2000-138854).

9. Regarding *claim 1*, Anderson discloses a digital camera (110) which includes an image sensor (224), a removable memory (354), a display (402) for displaying recorded or live images,

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and a shutter button (418) capturing an image and/or switching operation modes. More specifically, as disclosed in column 7, line 44 to column 8, line 13, Anderson discloses an embodiment in which an actuation of the shutter button (418) allows a user to capture an image no matter what mode the camera may be in. When the camera is in the review or play mode and the two-step shutter button is switched to the S1 position, the camera is automatically switched to the capture mode so that an image capture opportunity is not missed. Therefore, upon actuation of the shutter button (418) to the S1 position, an image is displayed from the image sensor. Then when the shutter button is pressed to the S2 position the image data is stored in the storage medium (354).

Anderson, however, fails to specifically disclose the use of a touch sensitive shutter button which produces a touch signal in response to the users finger touching the button. Torikai, on the other hand, discloses a digital camera which includes a display (4), an image sensor (CCD, 1), and a memory card (9). The camera uses a touch sensor (14) to determine if a user is touching the shutter release button (11). If it is determined that the user is touching the shutter release button (11), the display (4) is turned on in anticipation of an image capture. The display then displays the images captured by the CCD (1). See paragraphs 0018-0024. After capture of the image, the camera is returned to the standby state (paragraph 0031). By allowing a touch sensitive shutter button to be implemented into the camera of Anderson to change modes, the camera can be placed into an image capture ready state even faster so that a image capture opportunity is never missed. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to implement a touch sensitive shutter button into the

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camera of Anderson so that the camera is switched to an image capture mode and prepared to capture an image even faster.

10. As for *claim 2*, Anderson discloses that, in the review mode, menu data in the form of image thumbnails are display in the LCD. See column 6, lines 1-36.

11. With regard to *claim 3*, both Anderson and Torikai disclose that the display is an LCD display.

12. Regarding *claim 4*, both Anderson and Torikai disclose that the image sensor is a CCD.

13. As for *claim 5*, Anderson discloses the use of the stationary selection arrow line (702) as a navigation aid to indicate which thumbnail is the currently selected image. Using the left and right navigation buttons (410) the user can select an image from the menu (col. 6, lines 13-23).

14. **Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson (U.S. Patent No. 6,122,003) in view of Torikai (Japanese Publ. No. 2000-138854) and further in view of Hirasawa (U.S. Patent No. 6,091,450).**

15. With regard to *claim 6*, as mentioned above in the discussion of claim 1, both Anderson and Torikai disclose all of the limitations of the parent claim. However, neither of the aforementioned references discloses determining if a users eye is near an optical viewfinder and, if it is, turning the display off. Hirasawa, on the other hand, discloses that it is well known in the art to turn off a display if the user is using a viewfinder. More specifically, Hirasawa discloses an electronic viewfinder (107) for viewing an image of the object to be picked up. The electronic viewfinder (107) includes proximity of eye detecting portion (100) which detects if the user is using the electronic viewfinder or not. If the user is using the electronic viewfinder, then

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the display (115) is turned off. This feature allows the camera to conserve battery power when the viewfinder is in use. Therefore, it would have been obvious to one of ordinary skill in the art to include a viewfinder capable of detecting the presence of a users eye, and then turning off the display if the viewfinder is in use. Although Hirasawa only discloses an electronic viewfinder, the same idea could easily have been implemented into an optical viewfinder. One of ordinary skill in the art would have found it obvious to implement this in an optical viewfinder in order to reduce costs.

16. **Claims 8, 11, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Torikai (Japanese Publ. No. 2000-138854) in view of Anderson (U.S. Patent No. 6,122,003).**

17. Regarding *claim 8*, Torikai discloses a digital camera which includes a display (4), an image sensor (CCD, 1), and a memory card (9). The camera uses a touch sensor (14) to determine if a user is touching the shutter release button (11). If it is determined that the user is touching the shutter release button (11), the display (4) is turned on in anticipation of an image capture. The display then displays the images captured by the CCD (1). See paragraphs 0018-0024.

Torikai does disclose that after capture of the image, the camera is returned to the standby state (paragraph 0031). Torikai, however, fails to disclose displaying stored data when there is no touch signal generated by the touch-sensitive shutter button. Anderson, on the other hand, discloses a digital camera (110) which includes an image sensor (224), a removable memory (354), a display (402) for displaying recorded or live images, and a shutter button (418) capturing an image and/or switching operation modes. More specifically, as disclosed in column

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7, line 44 to column 8, line 13, Anderson discloses an embodiment in which an actuation of the shutter button (418) allows a user to capture an image no matter what mode the camera may be in. When the camera is in the review or play mode and the two-step shutter button is switched to the S1 position, the camera is automatically switched to the capture mode so that an image capture opportunity is not missed. Therefore, upon actuation of the shutter button (418) to the S1 position, an image is displayed from the image sensor. Then when the shutter button is pressed to the S2 position the image data is stored in the storage medium (354). After image capture, the user is capable of returning to a review of play mode by depressing the navigation buttons. However, one of ordinary skill in the art would have found it obvious to revert back to the previous operating mode without user interaction, thus reducing the number of operations performed by the user. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to revert back to a mode of displaying images from the memory card so that the user is placed back into the mode that they were in prior to the image capture.

18. As for *claim 11*, Anderson discloses that the storage medium includes stored image data and menu data. Anderson discloses that, in the review mode, menu data in the form of image thumbnails are display in the LCD. See column 6, lines 1-36.

19. With regard to *claim 12*, Torikai discloses that the touch-sensitive shutter button is a two-step shutter button in which an image is captured when the shutter button is actuated to an S2 state. See paragraphs 0016 and 0028.

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20. **Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Torikai (Japanese Publ. No. 2000-138854) in view of Anderson (U.S. Patent No. 6,122,003) and further in view of Hirasawa (U.S. Patent No. 6,091,450).**

21. With regard to *claim 9*, as mentioned above in the discussion of claim 8, both Anderson and Torikai disclose all of the limitations of the parent claim. However, neither of the aforementioned references discloses determining if a users eye is near an optical viewfinder and, if it is, turning the display off. Hirasawa, on the other hand, discloses that it is well known in the art to turn off a display if the user is using a viewfinder. More specifically, Hirasawa discloses an electronic viewfinder (107) for viewing an image of the object to be picked up. The electronic viewfinder (107) includes proximity of eye detecting portion (100) which detects if the user is using the electronic viewfinder or not. If the user is using the electronic viewfinder, then the display (115) is turned off. This feature allows the camera to conserve battery power when the viewfinder is in use. Therefore, it would have been obvious to one of ordinary skill in the art to include a viewfinder capable of detecting the presence of a users eye, and then turning off the display if the viewfinder is in use. Although Hirasawa only discloses an electronic viewfinder, the same idea could easily have been implemented into an optical viewfinder. One of ordinary skill in the art would have found it obvious to implement this in an optical viewfinder in order to reduce costs.

22. **Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Torikai (Japanese Publ. No. 2000-138854) in view of Anderson (U.S. Patent No. 6,122,003) and further in view of Daigaku (Japanese Publ. No. 11-252488).**

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23. With regard to *claim 10*, as mentioned above in the discussion of claim 8, both Anderson and Torikai disclose all of the limitations of the parent claim. However, neither of the aforementioned references specifically discloses that the display is selectively deactivated in accordance with a timeout period. Daigaku, on the other hand, discloses that it is well known in the art to turn off the power supply to a display device when operation is not performed for a 1st set time. See the abstract. This feature allows a camera to conserve battery power. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to turn off the display if not in use for a set amount of time in order to conserve battery power.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(703) 872-9306 (For either formal or informal communications intended for entry. For informal or draft communications, please label "**PROPOSED**" or "**DRAFT**")

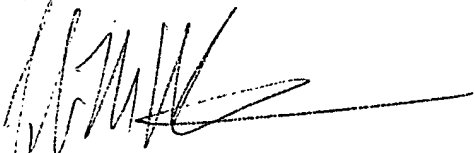
Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,
Arlington VA, Sixth Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John M. Villecco whose telephone number is (703) 305-1460. The examiner can normally be reached on Monday-Thursday.

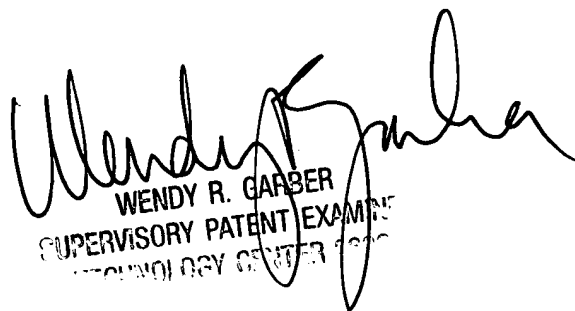
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wendy Garber can be reached on (703) 305-4929. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



John M. Villecco
September 21, 2004



WENDY R. GARBER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1800